

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT E CARUSO, et al.,

Plaintiffs,

v.

WASHINGTON STATE BAR
ASSOCIATION 1933, et al.,

Defendants.

CASE NO. C17-3 RSM

ORDER

THIS MATTER is before the Court on review of Chief Judge Ricardo Martinez's Order [Dkt. # 65], declining to Recuse himself in response to Plaintiff Caruso's attorney, Stephen Eugster's Motion to Disqualify [Dkt. # 64]. The Order was referred to this Court as the most senior non-Chief Judge under 28 U.S.C. §144 and LCR 3(e).

Eugster's Motion includes almost no factual background, and it is not supported with any evidence. Instead, it includes a single conclusory statement:

Judge Martinez and the court were the victims of fraud. Judge Martinez went a step further and became a knowing participant in the fraud.

[Dkt. # 64 at 1] In other filings, Eugster states that Judge Martinez does not have jurisdiction and his judgments are void, whether the courts agree, or not:

1 F. *Caruso and Ferguson v. WSBA et al*, No. 2:17-cv-00003 (W.D. Wash. 2017).

2 The decisions in this case, the decision against Caruso and the decision against Stephen
3 Kerr Eugster Pro se, are the product of a fraud on the court. See the draft complaint under Fed.
4 R. Civ. P. 60 (d)(3). Thus, no matter what this court or the court of appeals may say, the
5 decisions are void. They may be attacked under Rule 60 (d)(3) regardless of what the court of
6 appeals might do or not do.

7 [Dkt. # 63 at 4]. It appears that Eugster is claiming disqualification (or seeking recusal) based on
8 what he claims are erroneous decisions in this case.

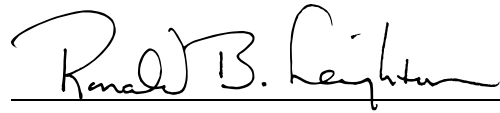
9 A federal judge should recuse himself if “a reasonable person with knowledge of all the
10 facts would conclude that the judge’s impartiality might reasonably be questioned.” 28 U.S.C.
11 § 144; *see also* 28 U.S.C. § 455; *Yagman v. Republic Insurance*, 987 F.2d 622, 626 (9th Cir.
12 1993). This objective inquiry is concerned with whether there is the appearance of bias, not
13 whether there is bias in fact. *See Preston v. United States*, 923 F.2d 731, 734 (9th Cir. 1992); *see*
14 *also United States v. Conforte*, 624 F.2d 869, 881 (9th Cir. 1980).). In the absence of specific
15 allegations of personal bias, prejudice, or interest, neither prior adverse rulings of a judge nor his
16 participation in a related or prior proceeding is sufficient to establish bias. *Davis v. Fendler*, 650
17 F.2d 1154, 1163 (9th Cir. 1981). Judicial rulings alone “almost never” constitute a valid basis for
18 a bias or partiality motion. *Liteky v. United States*, 510 U.S. 540, 555 (1994).

19 Eugster’s recusal motion does not identify or claim any personal bias, prejudice or
20 interest on the part of Judge Martinez; it includes no factual allegations at all. Eugster has not
21 raised any issue that would lead a reasonable person to question whether Judge Martinez can be
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1 impartial in this case. His Motion to Disqualify [Dkt. # 64] is DENIED, and Judge Martinez's
2 Order [Dkt. # 65] is AFFIRMED.

3 IT IS SO ORDERED.

4 Dated this 22nd day of May, 2018.

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7 Ronald B. Leighton
8 United States District Judge
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